IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
MONDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 769 of 2003

Between:

1. V. Subba Raju (died) his L.R.
2. V.Seethamma, W/0 late V. Subb Raju, 62 years, Occ. House wife, R/0 Chinamalla village, Penugonda Mandal, West Godavari District.

..... PETITIONERS

AND

1. The Government of Andhra Pradesh, Revenue Department, rep. By its Secretary, Secretariat Buildings, Hyderabad.
2. The District Collector, West Godavari District, Eluru,
3. The Revenue Divisional Officer, Kovvur, West Godavari District.
4. The Mandal Revenue Officer, Penugonda Mandal, West Godavari District.
5. N. Suryanarayana, S/o Ramanna, 64 years, Occ: Agriculture, Chinamallam village, Penugonda Mandal, West Godavari District.
6. N. Nageswara Rao, jS/o Suryanarayana, 45 years, Agriculture, Chinamallam village, Penugonda Mandal, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, more particularly one in the nature of writ of mandamus directing the respondents to take steps for restoration of the irrigation channel into R.S. No. 165/1 through R.S. No. 164/1 at Chinamallam village, Penugonda Mandal, West Godavari District by declaring the inaction on the part of the respondents as illegal, arbitrary and violative of Art. 14, 19 and 21 of the Constitution of India and pass such other order or orders as it may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.A.SATYA PRASAD

For the Respondent No.5 and 6: MR.SAI GANGADHAR

CHAMARTY

For the Respondents 1 to 4: G.P. for Revenue.

The Court Made the Following :

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ORAL ORDER:

Though the W.P.M.P. is listed for hearing, at request of both parties, the main Writ Petition itself is taken for hearing and disposal.

Petitioner filed this writ petition seeking a direction to the respondents to take steps for restoration of the irrigation channel into R.S.No. 165/1 through R.S. No. 164/1 of Chinamallam village in Penugonda Mandal of West Godavari District.

It is the case of the petitioner that he is owner and possessor of land in S.No. 165/1 of Chinamallam village of Penugonda Mandal in West Godavari District admeasuring Ac.1.8 cents. It is his case that there is an irrigation channel which passes through the land in R.S. No. 164/1 which is the source of irrigation to irrigate his land in S.No. 165/1. On the ground that respondents 5 and 6 have closed the said channel illegally, he approached the Mandal Revenue Officer Penugonda(4th respondent herein) who in turn has passed final orders dated 10-4-2002 under proceedings No. 10/2002(A) directing the Mandal Surveyor to restore the irrigation bodi in R.S.No. 164/1 of Chinamallam village as per the Field Measurement Book(F.M.B) and cause free flow of water through the irrigation bodi to the agricultural filed of the petitioner in S.No. 165/1.

This Court by an interim order dated 10-1-2003 directed the respondents to implement the order dated 10-4-2002.

Counter affidavit is filed on behalf of the respondents 5 and 6 stating that they have no objection for restoration of irrigation bodi as per the F.M.B of the village. But in the counter affidavit it is stated that taking advantage of the orders dated 10-1-2003 of this Court, the petitioner and the 4th respondent are trying to create a new bodi through the land in R.S. No. 164/1 contrary to the F.M.B. of the village.

It is not in dispute that the order dated 10-4-2002 passed by the 4th respondent has become final. In the aforesaid order, the 4th respondent has passed orders for restoration of the irrigation bodi through R.S. No. 164/1. In view of the said orders and also in view of the counter filed by the respondents 5 and 6, the said irrigation channel has to be restored as per the F.M.B. of the village, but at the same time, it is not open to the petitioner and also to the respondent authorities not to create any new irrigation bodi contrary to the F.M.B. of the village.

In that view of the matter, the Writ Petition is disposed of with a direction to the respondents to implement the orders dated 10-4-2002 passed by the 4th respondent, if not already implemented, and restore the irrigation channel in R.S. No. 164/1 of Chinamallam village as per the F.M.B. so as to allow the petitioner to cultivate his land through the said channel in R.S.No. 165/1 of the said village. However, it is made clear that while implementing the order dated 10-4-2002, no new irrigation channel should be created contrary to the F.M.B.

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kvsn 21-06-2004

To

1.The Government of Andhra Pradesh, Revenue Department, rep. By its
Secretary, Secretariat Buildings, Hyderabad.
2.The District Collector, West Godavari District, Eluru,
3.The Revenue Divisional Officer, Kovvur, West Godavari District.
The Mandal Revenue Officer, Penugonda Mandal, West Godavari District.
4.G.P. for revenue (O U T)
5.Two C.D. copies.